

The Honorable Thomas S. Zilly

*cl*  
FILED *11-13-02* ENTERED  
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AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON DEPUTY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

LEE McDONALD, et al.,

Plaintiffs,

v.

WESTERN WIRELESS CORP., et al.,

Defendants.

No. C02-861Z

STIPULATION AND ORDER OF  
DISMISSAL

*cl*  
~~IT IS HEREBY STIPULATED AND AGREED by and among the parties, through~~  
~~their respective counsel,~~ Pursuant to Rule 41(a), Federal Rules of Civil Procedure, that the  
following claims alleged in the Third Amended Complaint be dismissed — with prejudice  
as to the federal law claims and without prejudice as to the state law claims:

1. Count One (Fraud In Connection With the Forced Sale of Plaintiffs' Stock in  
Violation of Section 10(b) and Rule 10b-5 — dismissed with prejudice;
2. Count Two (Violation of Section 20(a) of the Exchange Act) — dismissed  
with prejudice;
3. Count Three (Violation of Securities Act of Washington) — dismissed  
without prejudice;

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4. Count Four (Breach of Partnership Agreements; Tortious Interference) — dismissed without prejudice;

5. Count Five (Breach of Fiduciary Duty and Duty of Good Faith and Fair Dealing) — dismissed without prejudice;

6. Count Six (Common Law Fraud) — dismissed without prejudice;

7. Count Seven (Rescission of Merger) — dismissed without prejudice;

8. Count Eight (Accounting; Wrongful Dissolution of Partnerships) — dismissed without prejudice; and


9. Count Nine (Constructive Trust) — dismissed without prejudice.

Dated this \_\_\_\_ day of November, 2002.

DORSEY & WHITNEY LLP

YARMUTH WILSDON CALFO PLLC

By: \_\_\_\_\_  
Evan L. Schwab  
Joseph C. Klein

By:   
Richard C. Yarmuth  
and

Attorneys for WWC Defendants

John Oitzinger, admitted *pro hac vice*  
Attorney at Law  
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Attorneys for Plaintiffs

ORDER

**IT IS SO ORDERED.**

DATED: November 8<sup>th</sup>, 2002.

  
Thomas S. Zilly  
United States District Judge